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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 United States of America,

10 Plaintiff,

11 v.

12 Ernesto Javier Lizarraga,

13 Defendant.
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No. CR-22-00318-02-PHX-DGC

DETENTION ORDER

15 On September 21, 2023, Ernesto Javier Lizarraga (the “Defendant”) appeared
16 before this Court on a Petition to Revoke Conditions of Release and submitted the issue to
17 the Court. The Court considered the information provided to the Court in determining
18 whether the Defendant should be released on conditions set by the Court.

19 The Court makes the following findings under 18 U.S.C. § 3148(b)(1):

- 20 ☐ There is probable cause to believe that the Defendant has committed a
21 Federal, State, or local crime while on release.
22 ☒ There is clear and convincing evidence that the Defendant has violated
23 the conditions of release.

24 The Court makes the following findings under 18 U.S.C. § 3148(b)(2):

- 25 ☐ Rebuttable Presumption where Probable Cause to Believe Felony
26 Committed on Pretrial Release. The Defendant has failed to rebut the
27 presumption that no condition or combination of conditions will assure
28 that the Defendant will not pose a danger to the safety of any other
person or the community. *See* 18 U.S.C. § 3148(b)(2) (providing that

1 rebuttable presumption of dangerousness applies if there is probable
2 cause to believe that while on release a defendant has committed a
3 Federal, State, or local felony).


4 ☒ Flight Risk. After considering the factors set forth in 18 U.S.C. §
5 3142(g), the Court finds by a preponderance of the evidence that there
6 is no condition or combination of conditions of release that will assure
7 that the Defendant will not flee. *See* 18 U.S.C. § 3148(b)(2)(A); *U.S.*
8 *v. Gotti*, 794 F.2d 773, 778 (2nd Cir. 1986) (holding that “findings
9 made under section 3148(b) may be established by a preponderance of
10 the evidence”).

11 ☐ Dangerousness. After considering the factors set forth in 18 U.S.C. §
12 3142(g), the Court finds by a preponderance of the evidence that there
13 is no condition or combination of conditions of release that will assure
14 that the Defendant will not pose a danger to the safety of any other
15 person or the community. *See* 18 U.S.C. § 3148(b)(2)(A); *Gotti*, 794
16 F.2d at 778.

17 ☒ Compliance with Conditions. The Court finds by a preponderance of
18 the evidence that the Defendant is unlikely to abide by any condition or
19 combination of conditions of release. *See* 18 U.S.C. § 3148(b)(2)(B);
20 *Gotti*, 794 F.2d at 778.

21 **IT IS THEREFORE ORDERED** that the Defendant be detained pending further
22 proceedings.

23 Dated this 21st day of September, 2023.

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25 _____
26 Honorable Eileen S. Willett
27 United States Magistrate Judge
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